IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.190 OF 2005

Goregaon Pearl Co-op
Hsg.Society Ltd. ...Appellant

Vs.

Ajaykumar Agarwal & Ors. ...Respondents

Mr.G.D.Utangale i/b M/s.Utangale & Co. for the Appellant
Mr.Kamble i/b A.M.Saraogi for Respondent No.1.
Ms Geeta Mulekar,A.G.P. for Respondent No.2.

CORAM: A.S.OKA, J.
DATED: APRIL 11,2005.

P.C.:

1. Heard Counsel appearing for the parties. The challenge in this Appeal from Order by the Appellant-original Defendant No.1 is to the Judgment and Order dated 5th February 2002 by which a Notice of Motion taken out by the Respondent No.1-Plaintiff has been allowed and interim relief has been granted in favour of the Respondent No.1. Thus, the order of interim relief is operating for last more than 3 years in favour of the Respondent No.1.

2. On 9th March 2005 when this Appeal was heard, the learned Counsel for the Appellant has made a grievance that the Respondent No.1 has been enjoying the facility of parking vehicles without making payment of maintenance charges to the Society. Today a communication issued by the Estate Manager of Respondent No.2 dated 18th March 2004 is placed on record. The learned Counsel for the appellant submitted that the said letter shows that the membership was transferred in favour of

the Respondent No.1 only subject to payment of amounts due and payable to the Appellant-Society and the Appellant has in fact not paid the amount due and payable to the Appellant-Society.

3. The learned Counsel for the Respondent No.1 disputed the contentions raised by the learned Counsel for the Appellant. He stated that if any dues are lawfully payable to the Respondent No.2 and the Appellant, the Respondent No.1 will make payment thereof.

4. As interim relief is operating for last more than 3 years, no purpose will be served by keeping the Appeal pending. In case the Respondent No.1 is not paying dues of the Appellant or the Respondent No.2, it is always open for the parties to adopt appropriate proceedings in the Trial Court for variation of interim relief granted in favour of the Respondent No.1.

5. Subject to observations made above, Appeal from Order is dismissed with no order as to costs.

Judge.